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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/765,575      | 01/27/2004  | Richard C. Bue       | 787.189US01         | 8127             |

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EXAMINER

WHITE, RODNEY BARNETT

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3636

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/765,575

Applicant(s)

BUE ET AL.

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9, 10 and 15-38 is/are rejected.
- 7) ☒ Claim(s) 7, 8 and 11-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10, 18-19, 21-22, 24-25, 27-31, and 33-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The dependency of these claims appear to be really mixed up and incorrect. Claim 10 appears to be redundant unless otherwise clarified. In claim 10, Applicant claims "wherein the handle and latching member are rotatably mounted". Claim 10 depends from claim 7, which depends from claim 6, which depends from claim 4. In claims 4 and 6, Applicant has already defined "a latch rotatably mounted to a first one of the table tops" and "the latch is freely rotatable relative to the handle". So claim 7 appears to be redundant since it depends from claims where the same limitations are defined.

Then claim 18 depends from claim 15 when it appears it should depend from claim 17. Claim 19 depends from claim 16 when it also appears it should depend from 17 or 18. Claim 21 depends from claim 18 when it appears that it should depend from claim 20 where "the spacing is mentioned. As a result "the spacing" in claim 21 lacks antecedent basis.. Claim 22 appears that it should depend from either claim 20 as well.

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Since claims 24-25 and 27-31 all depend from claim 21, either directly or indirectly, they are unclear and indefinite as well. Should claims 24-25 and 27-28 depend from claim 20? Should claims 33-34 depend from claim 32 instead of claim 30? In claim 35, line 1, "the cross bar" lacks antecedent basis. Should claim 35 have depended from claim 34 instead? Claim 36 appears that it should have depended from claim 32.

The aforementioned problems render the claims vague and indefinite. The Applicant's Representative submitted a very messy, inconsistent patent Application. Applicant needs to read back through those claims and correct all of the improper dependency. Hardly any of the claim depend from the claims from which they should depend. Clarification and/or correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9, 15-16, 20-29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Bue (U.S. Patent No. 6,065,802).

Bue teaches a folding table comprising a pair of table tops folding between a use position and a storage position; a framework; a folding linkage connecting the table tops to the framework and folding the table between the use position and the storage

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position; a selectively releasable lock 50 or 70 for the folding linkage automatically engaging at the storage position, wherein the selectively releasable lock automatically positions the table at a preferred storage position, wherein the lock comprises a handle 52 and a latch (column 3, lines 8-14) rotatable mounted to a first one of the tabletops, wherein the lock comprises a latch rotatably mounted to a first one of the tabletops, wherein the lock comprises an engagement member mounted to a second one of the tabletops and engaging the latch at the storage position, wherein the table folds to an initial shipping position wherein the latch is freely rotatable relative to the handle. All of the other standard structures, such as the linkages, the rails, and torsion spring, claimed or defined in claims 15-16, 20-29, and 31 are clearly evident in the Bue reference, which can be found by reading the reference.

Claims 1-6, 9, 15-16, 20-29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Bue (U.S. Patent No. 6,254,178 B1).

Bue teaches a folding table comprising a pair of table tops folding between a use position and a storage position; a framework; a folding linkage connecting the table tops to the framework and folding the table between the use position and the storage position; a selectively releasable lock 50 or 70 for the folding linkage automatically engaging at the storage position, wherein the selectively releasable lock automatically positions the table at a preferred storage position, wherein the lock comprises a handle 52 and a latch (column 3, lines 8-14) rotatable mounted to a first one of the tabletops, wherein the lock comprises a latch rotatably mounted to a first one of the tabletops, wherein the lock comprises an engagement member mounted to a second one of the

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tabletops and engaging the latch at the storage position, wherein the table folds to an initial shipping position wherein the latch is freely rotatable relative to the handle. All of the other standard structures, such as the linkages, the rails, and torsion spring, claimed or defined in claims 15-16, 20-29, and 31 are clearly evident in the Bue reference, which can be found by reading the reference.

Claims 1-6, 9, 15-16, 20-29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Bue (U.S. Patent No. 6,386,628 B1).

Bue teaches a folding table comprising a pair of table tops folding between a use position and a storage position; a framework; a folding linkage connecting the table tops to the framework and folding the table between the use position and the storage position; a selectively releasable lock 50 or 70 for the folding linkage automatically engaging at the storage position, wherein the selectively releasable lock automatically positions the table at a preferred storage position, wherein the lock comprises a handle 52 and a latch (column 3, lines 8-14) rotatable mounted to a first one of the tabletops, wherein the lock comprises a latch rotatably mounted to a first one of the tabletops, wherein the lock comprises an engagement member mounted to a second one of the tabletops and engaging the latch at the storage position, wherein the table folds to an initial shipping position wherein the latch is freely rotatable relative to the handle. All of the other standard structures, such as the linkages, the rails, and torsion spring, claimed or defined in claims 15-16, 20-29, and 31 are clearly evident in the Bue reference, which can be found by reading the reference.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-19 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bue

Bue teaches an obvious use of the structures as claimed.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bue in view of Park (U.S. Patent No. 6,808,434)

Bue teaches the structure substantially as claimed but does not teach a removable seat. However, Park teaches the concept of a removable seat to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the table, as taught by Bue, to include a removable seat, as taught by Park since it would allow accommodations to be made for those who are in wheel chairs to have closer access to the table and room to accommodate the wheelchair

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Claims 7-8 and 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schieber, Howe, Mackintosh, Howe et al, Bobbish, Blink et al, Homme, Nelson, Mugler, Kanzelberger, Kanitz, Seymour, Anderson et al, Giambalvo, Gutierrez, Haeger, Nikitits et al, Jones, York, Burton, and Pajerski teach foldable tables with seats.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276. (This number will be changed to (571) 272-6863 when Tech Center 3600 completes its move to the new U.S. Patent and Trademark Office facility in Alexandria, Virginia.)

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. (This number will be




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changed to (571) 272-6856 when Tech Center 3600 completes its move to the new U.S. Patent and Trademark Office facility in Alexandria, Virginia.)

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,  
Patent examiner  
Art Unit 3636  
March 10, 2005



RODNEY B. WHITE  
PRIMARY EXAMINER